

1 Joseph Mizzoni ID NO. 68549

2 HIGH DESERT STATE PRISON
22010 COLD CREEK ROAD
3 P.O. BOX 650
INDIAN SPRINGS, NEVADA 89018

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| COUNSEL/PARTIES OF RECORD | |
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| Cory R. W. D. | |
| CLERK US DISTRICT COURT | |
| DISTRICT OF NEVADA | |
| BY: <u>[Signature]</u> | DEPUTY |

4 IN THE UNITED STATES DISTRICT COURT
5 OF THE DISTRICT OF NEVADA

6
7
8 JOSEPH MIZZONI

9 Plaintiff

10 v.

11 STATE OF NEVADA et al.

12 Defendant

CASE NO.: 3:15-CV-00499-MMD-WGC

DEPT. NO.: _____

DOCKET: _____

13 "OBJECTIONS TO MAGISTRATES JUDGES REPORT & RECOMMENDATION"
14 _____
15 _____
16 _____

17
18 COMES NOW, Pro-se, Joseph Mizzoni, herein above respectfully
19 moves this Honorable Court for an Response to Plaintiff "OBJECTIONS TO
20 MAGISTRATES JUDGES REPORT & RECOMMENDATION" on his § 1983
Civil Rights Complaint Pursuant to USC § 1983.

21 This Motion is made and based upon the accompanying Memorandum of Points and
22 Authorities.

23 DATED: this 27 day of MARCH, 2018

24 BY: [Signature]
25 Joseph Mizzoni # 68549
26 Defendant/In Proper Personam
27
28

I.STATEMENT OF FACTS IN SUPPORT OF "UNDER POWERS AND AUTHORITY"

1 (FACT 1) Plaintiff filed his response to defendants' Motion for Summary
 2 of Judgment on the 28th day of November 2017 as Document (ECF No. 128), titled
 3 as "Motion To Oppose Defendants Motion For Summary Judgment And Sealed
 4 Exhibits/And Reverse Summary Judgment To Plaintiff For All Relief"

5
 6 (FACT 2) Plaintiff Joseph Mizoni #68549 is AR-SE. See; Harris v. Kerner 404
 7 U.S. 58, 59 (1972) (Allegations of a prior Complaint are held to less stringent
 8 standards than formal pleadings drafted by lawyers.
 9

10 (FACT 3) This Court filed a "REPORT & RECOMMENDATION OF U.S. MAGISTRATE
 11 JUDGE", Document 139, Filed 3-12-18, Re: ECF No. 118 in case # 3:15-cv-00499-MMD-WGC.
 12 Plaintiff now responds with in (14) days of receiving that Doc # 139 on 3-16-18.
 13 The Court granted defendants Summary of Judgment on (ECF No. 118). Plaintiff
 14 now opposes. He will "USE" the EXHIBITS from his response and opposition
 15 motion of the Defendants Summary of Judgment (ECF No. 123).
 16

17 (FACT 4) Plaintiff first address page 1 of 15 on the Report (ECF No. 139)
 18 This Court dismissed EXHIBITS B, C, and G on this response, to the defendants
 19 Summary of Judgment. Plaintiff opposes, these exhibits are crucial to the
 20 plaintiffs due process rights to a disciplinary hearing he is afforded by the case
 21 Wolff v. McDonnell, 418 U.S. 538-564-71 (1974) and (NDOC) Administrative Regulations
 22 (AR) 707 policies. The First EXHIBIT-B is Administrative Regulation (NDOC) AR
 23 422 Search & Shutdown Policies which is what caused this disciplinary hearing/
 24 Incident on March 28, 2015. See; (ECF No. 123) Page 2 Line 20-28 to page 3
 25 Line 1-6. Second EXHIBIT-C is (NDOC) Administrative Regulation (AR) 707 Inmate
 26 Disciplinary Process page 1-38. This Court dismisses this in Plaintiff's response to the
 27 defendants Summary of Judgment which is the very root of due process rights
 28 to a Inmate in the

1STATEMENT OF FACTS IN SUPPORT OF "UNDER POINTS AND AUTHORITY" (Continued)

1 disciplinary process, and it shows plaintiff is allowed evidence and witnesses.
 2 Plaintiff was denied video tape evidence in Unit 5 of A, B and C wings, and outside
 3 of Unit 5, Outside of Unit 4, Outside / Inside Unit 8, Inside / Outside Unit 7,
 4 which showed witnesses in Unit 5 coming and going from living where they live
 5 to and from the Unit 5 motels where CIO C. Smith officers report states
 6 plaintiff committed a Disciplinary Fraction of battery and inmate witnesses.
 7 One witness was in fact Inmate Chris Degerle #1010262 and was called as
 8 a witness and stated on recording there were other inmates who saw and witnessed
 9 what happen, and they were not allowed nor were there the Video evidence to
 10 question those witnesses, because the defendants and (UNCC) Prison Administration
 11 said they destroyed the Video. See; (ECF No 123) EXHIBIT-D Audio Recording for
 12 Disciplinary Hearing May 1, 2015 CD-Recording. See; (ECF No 123) EXHIBIT-H
 13 Document 112) Report & Recommendation of US Magistrate Judge Re: ECF No. 100 pg 10-11.
 14 See; (ECF No 123) EXHIBIT-A-0016 C Smith Report.

15 On EXHIBIT-H plaintiff was granted Spoliation of Video evidence as to
 16 Unit 5 A, B and C wings based on that the Video would of shown inmate
 17 witnesses of the incident between C Smith and Mizant. See; (ECF No 123)
 18 EXHIBIT-H Page 11 LINE 1-4. So there for denying Exhibit C NDOC AR 707
 19 Disciplinary Process on page 5 of 38, 1.4 • (A qualified opportunity to call
 20 witnesses with substantive knowledge of issues and present documentary
 21 evidence presented that to do so will not jeopardize institutional security or
 22 correctional goals.), would be denying plaintiff his constitutional rights to (NDOC)
 23 AR 707 Disciplinary Police and due process to defend himself at a disciplinary hearing
 24 would in its self be "atypical hardship." See also, Wolff v. McDonnell 418 U.S.
 25 538-564-71 (1974).

26 Finally EXHIBIT-G was denied by the Court which is the heart of the
 27 Video Evidence and procedures on Video use. In plaintiff Case, See; (ECF No 123)
 28 EXHIBIT-G-NDOC Administration -3

I.STATEMENT OF FACTS IN SUPPLEMENT I "UNDER POINTS AND AUTHORITIES" (continued)

1 Regulation 405 USE OF FORCE Pages 6 of 18 to 7 of 18. In this AR405
 2 it states: B. Spontaneous Use of Force may be used by staff to
 3 respond to an emergency or immediate threat when there is not time
 4 to formulate a plan or notify an immediate supervisor, and the situation
 5 constitutes a serious threat to the safety of staff, public, inmates and/or
 6 institutional security. Immediate use employed in a manner that poses the least
 7 risk to staff, the public and inmates,

8 a. Where force was used spontaneously, regardless of injuries reported
 9 contemporaneous with the event, the area supervisor/incident commander
 10 shall immediately review, if available any video surveillance that may have
 11 captured the Use of Force.

12 b. IF the use of force was captured on video, from any angle "on any camera,"
 13 the recording in a manner and location that is easily retrievable in the event
 14 review is needed. The video must be maintained for "No Less Than (3) three
 15 years from the date force was used.

16 c. IF no cameras were operational in that Unit or No Cameras captured
 17 the use of force, the area supervisor/incident commander shall make a notice
 18 of same in the use of Force incident report.

19 d. In addition to and apart from any surveillance footage from stationary
 20 cameras that may exist video footage shall be ~~be~~ recorded via a
 21 "Hand Held Camera," as

22 • As soon as the ~~shift~~ shift supervisor becomes aware of that force is
 23 being used, a staff member shall be directed to immediately obtain a
 24 Handheld video camera and shall be ordered to be seen where force
 25 has been used.

26 • Immediately upon arrival to the scene, the staff video recording begins
 27 recording, noting the time and date the recording begins and identify
 28 himself/herself as

I.STATEMENT OF FACTS IN SUPPORT OF "UNDER POINTS AND AUTHORITIES" (Continued)

1 video recorder. The staff video recorder shall continue to take footage
 2 until the area supervisor/incident commander decides the incident is over and
 3 instructions the staff video recorder to cease recording.

- 4 • For any breaks in recording, the recording staff member must sign
 5 back on with the date, time, and reasons for the break in recording.

6
 7 If the Use of Force is still occurring when the staff video recorder arrives,
 8 the incidents shall be recorded to capture the unfolding events while
 9 waiting for a response team, even if through windows, fences, bars, or
 10 even if far away, etc... Staff shall not place themselves in any danger
 11 to capture the events

12
 13 C. The Warden/Division head shall ensure the Use of Force Operational
 14 Procedures are specific on the process for the recording of Use of Force
 15 incidents and storage of the video recordings.

16 See; U.S. v. MYERS, 106 F.3d 436 (10th Cir. 1997) (It is basic
 17 canon of statutory construction that the use of word "shall"
 18 indicates mandatory intent) The defendants on both Case #3:15-cv-00313-
 19 MMD-VPC and this Case #3:15-cv-00499-MMD-WGC did not go by
 20 their own Administration Regulations per Video policies of AR 405.

21 See; The Administrative Procedures Act (APA), established the procedures
 22 for enacting rules with the federal APA being found at 5 USC §§ 551
 23 et seq. (The Court's current mind set appears to reinforce the trend of

24 making these agencies follow their own rules with numerous court orders
 25 and directives being issued, directing these agencies to follow their own
 26 rules and regulations.) This reference from THE BOOK 16th Edition Third Update

27 p.g. V. All Supervisors Ciof Hill, Henely, Robertson, Chandler and others had a duty to follow
 28 their own rules/regulations. -5- "They did Not", including defendants.

ISTATEMENT OF FACTS IN SUPPORT OF "UNLAWFUL POINTS AND AUTHORITIES"

(Continued)

1 This court denied all of these EXHIBITS which are the root of
 2 plaintiff's due process rights, and EXHIBIT-G is crucial to present a
 3 defence by showing Video that should be preserved (per-AR 405) so
 4 plaintiff could show and have witnesses and video evidence to marshal
 5 the charges and facts as a defense. He was denied all video "not just Unit 5"
 6 He needed all Video from Unit 5, Units, Unit 4, Unit 7 inside and outside to
 7 show he was punished without due process of a Disciplinary Hearing by
 8 being and ~~having~~ ^{having} his head pounded on floor, and scared, pain, and suffering
 9 by several C/O's while cuffed, leg shackled, and C/O Holder plaintiff down, then
 10 dragged backwards by (14) C/O's in a choke hold, rest of fingers bent up, cuffs
 11 tighten to cause nerve damage, cuts and bleeding with Hepatitis-C and no
 12 medical attention, but dragged (4) mile to med unit at night. This in its self
 13 is an atypical Hardship if you compare ordinary incidents of prison life by
 14 Fed. at 484 INSandin. and being punished before a disciplinary hearing is a
 15 liberty interest under the 14th Amendment to USCA. And then the defendants
 16 C/O C Smith lied and conspired with C/O Allison and Arderger to file a false
 17 Disciplinary Report, which is a "Atypical and significant Hardship" in
 18 its self. They all had a duty to follow the policies under (Neoc) AR 405 spontaneous
 19 use of force on page 6 of 18 to 7 of 18, and they did not video tape any
 20 of the incident from Unit 5, 4, 8 or 7 because it would of incriminated
 21 them all. All EXHIBITS B, C, and G are relevant and the root of
 22 plaintiff's due process claim, and then the Court granted spoliation of
 23 video evidence and witnesses in Unit 5 and on that plaintiff was told
 24 he could tell a "jury" that plaintiff and that he ask for this video for
 25 his due process of evidence and witnesses ~~that~~ that seen plaintiff not hit Smith.
 26 See, (ECF No 123) EXHIBIT-K. If the court grants plaintiff (ECF No 100)
 27 spoliation on this part for a "Jury" to be told, how can plaintiff be dismissed?
 28

I

STATEMENT OF FACTS IN SUPPORT OF "UNDOER POINTS AND AUTHORITIES" (continued)

1 When this in itself is material facts to go to trial? This video is
 2 a due process constitutional violation that with out it, or with it
 3 even better would show plaintiff in a "Atypical Hardship situation."
 4 If the Court is not going by the (NDOC) Policies (AR's) for Disciplinary
 5 due processes, and now not sanctions the Defendants on the First
 6 out of three sanctions as it said it would, "for evidence and witness"
 7 destruction", then what does plaintiff receive for a sanction of this
 8 due process violation? "for his disciplinary hearing?" Plaintiff must receive
 9 a trial in order to tell a Jury the defendant purposely destroyed Video
 10 and witness to that Disciplinary Hearing. How can one be guilty without evidence?
 11

12 (FACT 5) Plaintiff addresses PAGE 1 of 15 to 2 of 15 of (ECF No 139).

13 Plaintiff agrees to all this part of the report.
 14

15 (FACT 6) Plaintiff addresses PAGE 2 of 15 Lines 27-28 to PAGE 3 Lines 1-5 on
 16 (ECF No. 139).

17 Plaintiff opposes "all" of the defendants versions of events. Lt. Brannon
 18 did violate plaintiff's due process rights to the 14th Amend. USCA because
 19 plaintiff does have a liberty interest and is constitutionally entitled to
 20 due process protections. He, Lt Brannon has a duty to follow the
 21 AR 707 (NDOC), AR 405, Rules and Regulations per NDOC AR 707 Disciplinary
 22 Procedures under Page 5 of 38, 1.9 (A qualified opportunity to call witnesses
 23 with substantive knowledge of issues and present documentary evidence
 24 provided that to do so will not jeopardize institutional security or correctional
 25 goals.) and NDOC AR 405 USE OF FORCE, Pages 6 of 18 to 7 of 18 see; Page 4 to
 26 5 Line 1-15 of this Opposition Motion. And see; (ECF No 123) EXHIBIT-C AR 707.

27 At no time on recording or written was plaintiff told it was a security risk
 28 for the witnesses on the video.

I.STATEMENT OF FACTS IN SUPPORT OF "UNDER POINTS AND AUTHORITIES" (Continued)

1 LT. Brannon denied plaintiff all video evidence, he never said there
 2 was none he said it's our policy to not let a inmate see the video. And
 3 on his Interrogation and Admission responses he admits the video
 4 cameras worked on date of incident 3-28-15. So with the fact of having
 5 one or more witness plaintiff should not of been found guilty any ways,
 6 and the video "All" would of shown the witnesses and the punishment before afforded
 7 a disciplinary hearing. The defendants state that so evidence is the officers
 8 report and medical report. The requirements of due process are satisfied if
 9 "some evidence" supports the decision by the prison disciplinary board. "Superintendent
 10 Massachusetts Corr. Inst., Walpole v. Hill, 472, U.S. 445, 455 (1985).

11 However, this standard does not apply when a prisoner alleges that a prison
 12 guards report is false. Hines v. Gomez, 108 F.3d 265, 268 (9th Cir. 1997).
 13 C/O Smith's version is false and plaintiff can prove it and its material
 14 fact at a minimum for a Jury trial. See: (ECF No. 123) EXHIBIT-E (NDOC)
 15 Investigation Detail Reports for All Correctional Officers on March 28, 2015 Night.
 16 On these reports there were (4) officers, Senior John Hill, C/O Joseph Allison,
 17 C/O Robert Ardinger and C/O Scott Smith who "all" came from Unit 4 at (NDOC)
 18 Prison to Unit 5 and First on the 3-28-15 Incident seen.

19 The First Detail Report Senior John Hill states on EX-E page 3 of 10 of the reports:
 20 On Saturday 3-28-15 Myself and Officers Allison, Ardinger, S. Smith did arrive in
 21 Unit 4. page 4 of 10 Reports: Myself and the three officers departed from Unit 4
 22 enroute to Unit 5. Upon arrival Officers Allison, Ardinger, S. Smith, provided
 23 assistance to Officer C. Smith, while I began to disperse inmates.

24 The Second Detail Report of Correctional Officer Allison and Ardinger states
 25 on EX-E page 7 of 10: On 3-28-15 Allison and Ardinger assisted C. Smith the
 26 Unit officer and Inmate Mizzoni were on the ground struggling, C. Smith was
 27 on top of Mizzoni trying to control him while Mizzoni was attempting
 28 to

E.

STATEMENT OF FACTS IN SUPPORT I "INTERPRETS AND AUTHORIZES" (Continued)

1 punch Officer C. Smith, I assisted Officer C. Smith by placing my left hand on
 2 Mizzoni's head so he was unable to bite or spit on officers; I also
 3 assisted by placing my right knee against Mizzoni's left shoulder and my right
 4 hand on his right shoulder because Mizzoni continued to struggle and resist
 5 staff. I was giving verbal commands to Mizzoni to quit resisting and
 6 stop fighting. After the Unit was locked down and the inmate was in wrist
 7 restraints. I assisted Inmate Mizzoni to get his feet and he continued to
 8 resist by dropping his weight down refusing to stand up straight.

9 The Third Detail Report of Correctional Officer Scott Smith on EXHIBIT-E
 10 page 6 of 10 to 7 of 10 report states: I C/O Scott Smith was in Unit 4
 11 when I responded to Unit 5. When I got there Officer C. Smith had
 12 Inmate Mizzoni #68549 on the ground "Hand Cuffed". I help secured the Unit

13 These Officers Detail Reports of the 3-28-15 incident clearly show a
 14 material facts to show plaintiff has another witness C/O Scott Smith to prove
 15 plaintiff is innocent of this disciplinary. Also shows the defendant C. Smith, C/O Allison,
 16 and C/O Ardinger conspired and wrote false reports and a false disciplinary
 17 report beyond any doubt. This in itself is "Atypical and Significant Hardship"
 18 from the ordinary relation to incidents in prison life." Id. at 484 In Sandoz. Which
 19 is as plaintiff states, Allison and Ardinger used punishment on the spot to discipline
 20 plaintiff, along with Unit 5 Officer C. Smith the defendant without a due
 21 process hearing, write up, Impartial decision maker, witnesses, evidence, not anything
 22 but how they explain the punishment in Detail Reports on EXHIBIT-E. This in
 23 its self is grounds for dismissal of the latter disciplinary report by C. Smith.
 24 See; (ECF No 123) EXHIBIT-A-006 C. Smith Notice of Charges. Here C. Smith
 25 says on line 12-16 Ardinger was first to arrive in Unit. At this time I
 26 was able to get wrist restraints onto inmate Mizzoni. As soon as officers were
 27 able to take over restraining Inmate Mizzoni, I walked out to catch my breath.
 28 S. Smith says plaintiff was cuffed and

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STATEMENT OF FACTS IN SUPPORT OF "UNDER ARREST AND AUTHORITIES" (Continued)

1 C. Smith was on top of plaintiff by himself, So he went and secured the
 2 Unit 5. He didn't use punishment or any force like Allison, C. Smith the defendant,
 3 and Arndinger state. Also Senior John Hill said he and the (3) C/O got to
 4 the Unit 5 "at the same time" and the (3) officers Allison, Arndinger and Scott
 5 Smith assisted the Defendant C. Smith "at the same time". See; Johnson v. State,
 6 564 So. 2d 100 (Ala. 1989) (However, a Prison disciplinary report which only
 7 states that it finds the inmate guilty and that it accepts the officers
 8 statement is not adequate.) Also See; (ECF No. 123) EXHIBIT-A: Disciplinary
 9 Hearing Report on -1003 page 2 of 4 of that report Evidence Relied on for
 10 Disciplinary Hearing, it states: 5/01/2015 Lt. Brannon Officers Report and Injuries
 11 noted that officer was treated for. This show Lt. Brannon "only" relied on
 12 officer Reports and not All officers reports, Video, or witnesses to find plaintiff
 13 guilty in which is evidence not here say. See; U.S. v. HAISE, 162 F.2d 359 (5th Cir 1948)
 14 (FALSE STATEMENTS, convictions must be reversed under False Witness-). Like C. Smith.
 15 (FACT 2) Plaintiff addresses (ECF No 139) B. Analysis, the Atypical and
 16 Significant Hardship on PAGE 11 Lines 14-28 to PAGE 14 Line 1-28.
 17 Plaintiff opposes the Courts version that his situation was not Atypical
 18 and Significant Hardship especially when plaintiff can prove by detail reports
 19 he didn't hit C. Smith or throw punches, or not comply, or was unharmed, and
 20 that the report is truly false. And without this work up disciplining plaintiff
 21 would not of been punished for that write up. By being punished by the
 22 Disciplinary Report by Defendant C. Smith being false, Plaintiff was truly
 23 put into a Atypical and Significant Hardship, and all that Hardship
 24 is illegal: 2 years Disciplinary Segregation, Moved from a Level 1 custody minimum
 25 yard to a Level 5 max yard / Super max, and losing all the privileges and
 26 Amities in ordinary relations to inmates in prison at the minimum custody Level 1
 27 of (NCC) minimum prison compared to the Level 5 max / super max at Elly State Prison.
 28 See; (ECF No. 123) Page 16 Line 1-28 to 9-16.

I:STATEMENT OF FACTS IN SWARTZ I "UNDER POINTS AND AUTHORITIES" (Continued)

1 page 17 Line 1-7. which is compared to the minimum prison to the max prison.
 2 For the record plaintiff is comparing the minimum level 1 yard in prison to the
 3 Level 5 in a max prison yard. Just the comparison to a false Disciplinary and
 4 destroyed Video and witnesses compared to the illegal punishment is Atypical
 5 of a Significant Hardship, and plaintiff can prove it all. "Sandin" requires a
 6 Factual comparison between conditions in general population or administrative
 7 Segregation (whichever is applicable) and disciplinary segregation examining the
 8 hardship caused by the prisoners challenged action in relation to the
 9 basic conditions of life as a prisoner. "Jackson v. Carey, 353 F.3d 750, 755
 10 (9th Cir. 2003). In "Sandin" the inmate was sentence to (30) days only,
 11 compared to the plaintiffs 2 years of D/S which does present a dramatic
 12 departure from basic conditions of [his] sentence on a minimum Level 1
 13 Custody compared to a Level 5 max/super max prison and a transfer to it.
 14 In plaintiffs case his Disciplinary Segregation is not mirrored compared to
 15 his Level 1 custody at a minimum prison yard, not protective custody or
 16 Administration Custody. Plaintiff was on a minimum General Population Level 1
 17 prison yard. This Court compares this case # 3:15-cv-00499-MMD-WGC to
 18 case # 3:11-cv-00186-LRH-WGC as to state they ~~are~~ are the exactly
 19 the same conditions of confinement, "THEY ARE NOT." Plaintiff was at
 20 Ely State Prison / Housed Max Prison on Case # 3:11-cv-00186-LRH-WGC and at
 21 that time the conditions and freedom of restrain were very similar, in
 22 this case they are not. Another Atypical Significant Hardship is not only
 23 was the plaintiff transferred from Level 1 Custody Prison at minimum status
 24 to Level 5 max/super max prison but the defendants LT Bramon never gave
 25 plaintiff a classification Hearing to be transferred from minimum custody to max
 26 custody prisons, and plaintiff was denied due process by no notice, hearing,
 27 witness, evidence either written or by community to move him which is a
 28 Constitutional Violation under the

I.STATEMENT OF FACTS IN SUPPORT I* UNDER POINTS AND AUTHORITIES* (Continued)

1 14th Amendment to equal protection of the laws USCA. See; (ECF No. 123)

2 EXHIBIT-A: 001 Disciplinary Sanction Notification. see on that Institutional

3 transfer/Recommended Institution (NONE). Also No loss of Canteen/store, Visitings,

4 Loss of phones, Loss of electrical appliances, Loss of Gym. Loss of nothing except

5 Stat Referral A, 24 month DS, and restitution TBD. Also See; (ECF No. 123)

6 EXHIBIT-A: 004 Summary of Disciplinary Hearing under Results of Disciplinary

7 Hearing: DS 24 months; REST, STAT Time REF. And See; Plaintiff's 81983

8 Civil Right Complaint, B: NATURE OF THE CASE page 3-C Line 19-24 (22) For additional

9 due process to be transferred from minimum to ~~max~~ max prison. Findy See; Wilkinson,

10 545 U.S. 220-227. Additional due process is required under due process clause when

11 get in moved from a ~~max~~ minimum prison to a max/super max prison, and

12 he was denied it which is atypical and hardship.

13

14 (FACT B.) Plaintiff's assertion of facts required by Rule 55(c) do show and establish

15 the existence of a genuine dispute of material facts and that a jury and this

16 court could resolve the differing versions of truth at trial. See; T.W. Elec. Serv.,

17 Inc. v. Bos. Elec. Contractors Assn, 809 F.2d 626, 630 (9th Cir 1987). When

18 reasonable mind could differ on the material facts at issue, summary judgment is

19 not appropriate. See; Anderson, 477 U.S. at 250. See; Plaintiff's recent Case # 3:15-

20 CV-MMD-WGC which the plaintiff is granted a trial on the excessive force part of

21 case under the same materials of this case # 00499. Fed. R. Civ. P. 56(C)(1)(A)(B).

22 Also see; Case # 3:15-CV-00186-LRH-WGC D/S time was 365 days/year, and

23 compare Case # 3:15-CV-00499-MMD-WGC is 730 Days/2 years twice the time

24 the court use to compare, and is atypical and significant hardship compared to

25 General Population minimum Level 1 is restrained to Locked down 28 hours at max prison

26 restrained, cuffed and legshackled and strip searched every where you go including to the

27 showers. Plaintiff suffered anger, charges, humiliation, mental anguish, fear, imprisonment, threats

28 by staff etc. for being innocent.

I.

STATEMENT OF FACTS IN SUPPORT I "UNDER PRINTS AND MICROFILMS" (continued)

(EAST 9) Plaintiff address this Court ORDER Doc#140 Filed 3-12-18
 Sealing Documents H and I which are medical records of C Smith, these
 records were already exhibited as part of Defendants Discovery, and
 Plaintiff opposes the sealing of these records, because he will need them
 for Case # 3:15-CV-00313-MMD-VPC Trial and this case # 00499 if
 the appeals 9th Cir. ever turns this case, and they may want to see
 those reports on these decision.

II CONCLUSION

Wherefore plaintiff opposes the granting of Defendants Motion for
 Summary Judgment and respectfully ask under the "Parks and Authornet"
 enclosed on this brief, and he show good cause why and ask for all
 his relief and/or a minimum Jury trial.

RESPECTFULLY SUBMITTED

this 27 day of March 2018

BY: Joseph M. M...
 Joseph M. M...
 #65549

III.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSEPH MEZZONE,
Plaintiff,

Civil Action No: 3:15-cv-00499-MMD-WGC

vs

STATE OF NEVADA et al,
Defendants

AFFIDAVIT OF JOSEPH MEZZONE FOR "OBJECTION
TO MAGISTRATES JUDGES REPORT & RECOMMENDATION"

STATE OF NEVADA

: ss JOSEPH MEZZONE #68549 PRO-SE

(COUNTY OF CLARK)

Comes Now the plaintiff on the above styled action. Mezzone and after being duly sworn, deposes and says:

1.) He is representing himself as a Pro Se without counsel.

2.) Plaintiff's pro se Mezzone swears by the above styled motion with points and Authorities.

3.) The plaintiff is entitled by law to the relief asked for and swears under penalty and perjury §1749/NRS Laws.

4.) This Declaration of plaintiff truth to the 3-28-15 Incident and 5-1-15 Displeasure.

RESPECTFULLY SUBMITTED

this 27 day of March 2018

BY: Joseph Mezzone
JOSEPH MEZZONE
#68549

CERTIFICATE OF SERVICE BY MAILING

I, Joseph Mizzoni, hereby certify, pursuant to NRCP 5(b), that on this 27
 day of MARCH, 2018, I mailed a true and correct copy of the foregoing, ""OBJECTIONS TO MAGISTRATES JUDGES REPORT & RECOMMENDATION""
 by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
 addressed as follows:

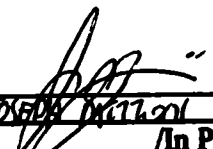
1) CLERK U.S. DISTRICT COURT
 District of Nevada
 400 S. Virginia Street
 Room 301
 Reno, NV. 89501

2) OFFICE OF NEVADA ATTORNEY GENERAL'S
 OFFICE
 Mrs. Albright
 100 N. Carson Street
 Carson City, NV. 89701-4717

~~3) ADDRESS OF PLAINTIFF~~
 3) ADDRESS OF PLAINTIFF
 Joseph Mizzoni # 68549
 H.D.S.P. PO Box 650
 Indian Springs, NV 89018

CC:FILE

DATED: this 27 day of MARCH, 2018.


JOSEPH MIZZONI # 68549
 /In Propria Personam
 Post Office box 650 [HDSP]
 Indian Springs, Nevada 89018
IN FORMA PAUPERIS: